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§ 1702.15 Preservation of records.

OFHEO shall preserve all correspondence relating to the written requests it receives and all records processed pursuant to such requests under this part, in accordance with the records retention provisions of General Records Schedule 14, Informational Services Records. OFHEO shall not destroy records that are subject to a pending request for access, amendment, appeal, or lawsuit pursuant to the Privacy Act.

§ 1702.16 Rights of parents and legal guardians.

For purposes of this part, a parent of any minor or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction may act on behalf of the individual.

§ 1702.17 Penalties.

The Privacy Act (5 U.S.C. 552a(i)(3)) makes it a misdemeanor, subject to a maximum fine of \$5,000, to knowingly and willfully request or obtain any record concerning an individual from OFHEO under false pretenses.

PART 1703—RELEASE OF INFORMATION

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Subpart A—General Definitions

§ 1703.1 Scope.

Definitions in § 1703.2 relate to the meaning of terms used throughout part 1703.

[63 FR 71005, Dec. 23, 1998. Redesignated and amended at 65 FR 81327, Dec. 26, 2000]

§ 1703.2 General definitions.

For the purpose of this part:

(a) *Appeals Officer* means the person designated by the Director to process appeals of denials of requests for OFHEO records under the FOIA.

(b) *Director* means the Director of OFHEO or his or her designee.

(c) *Document* means any record or paper, including but not limited to a report, credit review, audit, examination, letter, telegram, memorandum, study, calendar and diary entry, log,

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graph, pamphlet, note, chart, tabulation, analysis, statistical or information accumulation, any record of meetings and conversations, film impression, magnetic tape, or any electronic media, disk, film, or mechanical reproduction that is generated, obtained, or adopted by OFHEO in connection with the conduct of its official business.

(d) *Employee* means any officer, former officer, employee, or former employee of OFHEO; any conservator appointed by OFHEO; or any agent or independent contractor acting on behalf of OFHEO, even though the appointment or contract has terminated.

(e) *FOIA* means the Freedom of Information Act.

(f) *FOIA Officer* means the person designated to process requests for OFHEO records under the FOIA.

(g) *Official* means concerning the authorized business of OFHEO.

(h) *OFHEO* means the Office of Federal Housing Enterprise Oversight.

(i) *Person* means any individual, or any agency, corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein, but does not include OFHEO or any employee.

(j) *Record* means any document, regardless of form or format, which is created or obtained by OFHEO and which is under OFHEO control at the time of an FOIA request.

(k) *Requester* means any person seeking access to OFHEO records under the FOIA.

[63 FR 71005, Dec. 23, 1998, as amended at 65 FR 55171, Sept. 13, 2000]

Subpart B—Documents and Information Generally

§ 1703.6 General rule.

Except as authorized by this part or as otherwise necessary in performing official duties, no employee shall in any manner disclose or permit disclosure of any document or information in the possession of OFHEO that is confidential or otherwise of a nonpublic nature, including that regarding OFHEO or the Federal National Mortgage Association (Fannie Mae) or the

Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises).

§ 1703.7 Applicability.

(a) *General.* The FOIA and the regulations in this part apply to all OFHEO documents and information. However, if another law sets specific procedure for disclosure, OFHEO will process a request in accordance with the procedures that apply to those specific documents. If a request is received for disclosure of a document to the public which is not required to be released under those provisions, OFHEO will consider the request under the FOIA and the regulations in this part.

(b) *The relationship between the FOIA and the Privacy Act of 1974.* The Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, applies to records that are about individuals, but only if the records are in a system of records as defined in the Privacy Act. Requests from individuals for records about themselves which are contained in an OFHEO system of records will be processed under the provisions of the Privacy Act as well as the FOIA. OFHEO will not deny access by a first party to a record under the FOIA or the Privacy Act unless the record is not available to that individual under both the Privacy Act and the FOIA.

(c) *Records available through routine distribution procedures.* When the record requested includes material published and offered for sale, *e.g.*, by the Superintendent of Documents or the Government Printing Office, or which is available to the public through an established distribution system (such as that of the National Technical Information Service of the Department of Commerce), or material offered on OFHEO's web site (<http://www.ofheo.gov>), OFHEO will first refer the requester to those sources. Nevertheless, if the requester is not satisfied with the alternative sources, OFHEO will process the request under the FOIA.

[63 FR 71005, Dec. 23, 1998, as amended at 65 FR 55171, Sept. 13, 2000]

§ 1703.8 OFHEO examination reports.

(a) *General.* Reports of examinations prepared by OFHEO may be disclosed